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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/187,895	11/06/1998	ANDREW T. BUSEY	004068.P004x2	3594
34847	7590	11/30/2004	EXAMINER	
AVAYA INC. 307 MIDDLETOWN-LINCROFT ROAD ROOM 1N-391 LINCROFT, NJ 07738			BASHORE, WILLIAM L	
			ART UNIT	PAPER NUMBER
			2176	

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09/187,895 APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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BASHORE, WILLIAM EXAMINER

2176 ART UNIT	PAPER
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20041124

DATE MAILED:

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Commissioner for Patents

Regarding Appellant's IDS filed 5/6/2004 (case 09/187,895 currently on appeal),

The examiner acknowledges submission of IDS filed 5/6/2004 after Final rejection. However, said IDS fails to comply with MPEP 609 sections (d) and (e). Accordingly, said IDS has been placed in the file, but will not be considered by the examiner at the present time.

William L. Bashore
WILLIAM L. BASHORE
PATENT EXAMINER
TECH CENTER 2100
November 24, 2004



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/187,895
Filing Date: November 06, 1998
Appellant(s): BUSEY, ANDREW T.

David Volejnicek
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 19, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

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(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims groupings A, B, and C stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(9) Prior Art of Record

5,793,365	TANG et al.	8-1998
5668863	BIESELIN et al.	9-1997
5956038	REKIMOTO	9-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 29-31, 33-46, 48-61, 63-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tang et al. (hereinafter Tang), U.S. Patent No. 5,793,365 issued August 1998, in view of Bieselin et al. (hereinafter Bieselin), U.S. Patent No. 5,668,863 issued September 1997.

In regard to independent claim 1, Tang teaches coordinating media/messaging operations via a real time chat server, said server handling transmitted data (see Tang column 3 lines 59-67, column 4 lines 1-4; compare with claim 1 "*A method for coordinating a plurality of communications....comprising*").

Tang teaches sending a message stream in the form of initial messages and objects, sent to a chat server (chat servers process bi-directional message data), and accepting the same from other users engaged in a chat environment, said messages controlled by a chat server (see Tang Figure 5, column 3 lines 20-29, column 8

lines 32-39, also Abstract). Tang also teaches a communication server in connection with a video conferencing server, and an audio conferencing server (see Tang Figure 11 items 80, 81, 83). Since item 80 is not technically a media server, a user can communicate with each of media servers 81 and 83 directly (i.e. separately, without overlap) to the extent shown via directional arrows within Figure 11 (see also Tang column 14 lines 40-43 (compare with claim 29 “*communicating between a user node and each....in a different one of the plurality of the media*”).

Tang teaches a communication server handling (controlling) data between a user and each of a plurality of media servers (see Tang Figure 11 items 80, 81, 83). Tang does not specifically teach a media server controlling the communicating between the user node and the media servers. However, Bieselin teaches recording/retrieval of audio conferences, whereby an audio conferencing system server comprises a system controller and a data storage subsystem, said storage subsystem primarily storing audio data (see Bieselin Figure 1 items 100, 110, 125, also column 3 lines 60-67). Since item 100 contains both the controller, data storage, etc., item 100 controls communication between a user and audio data. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bieselin Figure 1 item 100, to Tang’s media servers as indicated in Tang Figure 11, providing Tang the benefit of integrating communication along with a particular media server so as to free up communication resources elsewhere (compare with claim 29 “*in response to control communications between one of the media servers....in the plurality of the media at the user node.*”).

In regard to dependent claims 30-31, Tang teaches the use of chat servers for controlling communication (i.e. streaming media), a computer network with a plurality of connected computers, a first and second chat client transferring data from one computer to another computer, as well as video conferencing capabilities (Tang column 3 lines 20-29, 59-67, column 8 lines 32-40).

In regard to dependent claim 33, claim 33 incorporates substantially similar subject matter as claimed in claim 29, and is rejected along the same rationale.

In regard to dependent claim 34, Tang teaches a communication server handling (controlling) data between a user and each of a plurality of media servers (see Tang Figure 11 items 80, 81, 83). Tang does not specifically teach a media server controlling the communicating between the user node and the media servers. However, Bieselin teaches recording/retrieval of audio conferences, whereby an audio conferencing system server comprises a system controller (for controlling communications) and a data storage subsystem, said storage subsystem primarily storing audio data (see Bieselin Figure 1 items 100, 110, 125, also column 3 lines 60-67). Since item 100 contains both the controller, data storage, etc., item 100 controls communication between a user and audio data. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bieselin Figure 1 item 100, to Tang's media servers as indicated in Tang Figure 11, providing Tang the benefit of integrating communication along with a particular media server so as to free up communication resources elsewhere.

In regard to dependent claims 35-37, in addition to the teachings of Tang in view of Bieselin as presented above, Tang teaches a communication server selecting the highest communication service available on each participating computer (see Tang column 14 lines 40-43). If a user selects a video conference, said server will try to match services and media accordingly.

In regard to dependent claim 38, claim 38 incorporates substantially similar subject matter as claimed in claims 29, and in further view of the following, is rejected along the same rationale.

Tang in view of Bieselin teaches a communication server in communication with media servers. Bieselin is used for adding communication control in a system server incorporating a media server (see Tang Figure 11, Bieselin Figure 1; compare with claim 38 "*the client of the one media server and the clients of other said media servers... of the media at the user node;*").

In regard to dependent claim 39, claim 39 incorporates substantially similar subject matter as claimed in claim 29, and is rejected along the same rationale.

In regard to dependent claims 40-43, Tang teaches a chat embodiment. A network chat session typically comprises originating media data messages (i.e. text, video, and/or audio) from a user initiating a chat session (see Tang column 3 lines 20-29, 59-67, column 8 lines 32-40).

In regard to independent claim 44, claim 44 reflects the system comprising computer readable instructions used for performing the methods as claimed in claim 29, and is rejected along the same rationale.

In regard to dependent claims 45-46, Tang teaches the use of chat servers for controlling communication (i.e. streaming media), a computer network with a plurality of connected computers, a first and second chat client transferring data from one computer to another computer, as well as video conferencing capabilities (Tang column 3 lines 20-29, 59-67, column 8 lines 32-40).

In regard to dependent claim 48, claim 48 incorporates substantially similar subject matter as claimed in claim 44, and is rejected along the same rationale.

In regard to dependent claim 49, Tang teaches a communication server handling (controlling) data between a user and each of a plurality of media servers (see Tang Figure 11 items 80, 81, 83). Tang does not specifically teach a media server controlling the communicating between the user node and the media servers. However, Bieselin teaches recording/retrieval of audio conferences, whereby an audio conferencing system server comprises a system controller (for controlling communications) and a data storage subsystem, said storage subsystem primarily storing audio data (see Bieselin Figure 1 items 100, 110, 125, also column 3 lines 60-67). Since item 100 contains both the controller, data storage, etc., item 100 controls communication between a user and audio data. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bieselin Figure 1 item 100, to Tang's media servers as indicated in Tang Figure 11, providing Tang the

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benefit of integrating communication along with a particular media server so as to free up communication resources elsewhere.

In regard to dependent claims 50-52, in addition to the teachings of Tang in view of Bieselin as presented above, Tang teaches a communication server selecting the highest communication service available on each participating computer (see Tang column 14 lines 40-43). If a user selects a video conference, said server will try to match services and media accordingly.

In regard to dependent claim 53, claim 53 incorporates substantially similar subject matter as claimed in claims 44, and in further view of the following, is rejected along the same rationale.

Tang in view of Bieselin teaches a communication server in communication with media servers. Bieselin is used for adding communication control in a system server incorporating a media server (see Tang Figure 11, Bieselin Figure 1; compare with claim 53 "*the one media server controlling communicating between....of the media at the user node;*").

In regard to dependent claim 54, claim 54 incorporates substantially similar subject matter as claimed in claim 44, and is rejected along the same rationale.

In regard to dependent claims 55-58, Tang teaches a chat embodiment. A network chat session typically comprises originating media data messages (i.e. text, video, and/or audio) from a user initiating a chat session (see Tang column 3 lines 20-29, 59-67, column 8 lines 32-40).

In regard to independent claim 59, claim 59 reflects the apparatus comprising computer readable instructions used for performing the methods as claimed in claim 29, and is rejected along the same rationale.

In regard to dependent claims 60-61, Tang teaches the use of chat servers for controlling communication (i.e. streaming media), a computer network with a plurality of connected computers, a first and second chat client transferring data from one computer to another computer, as well as video conferencing capabilities (Tang column 3 lines 20-29, 59-67, column 8 lines 32-40).

In regard to dependent claims 63, Tang teaches a communication server handling (controlling) data between a user and each of a plurality of media servers (see Tang Figure 11 items 80, 81, 83). Tang does not specifically teach a media server controlling the communicating between the user node and the media servers. However, Bieselin teaches recording/retrieval of audio conferences, whereby an audio conferencing system server comprises a system controller (for controlling communications) and a data storage subsystem, said storage subsystem primarily storing audio data (see Bieselin Figure 1 items 100, 110, 125, also column 3 lines 60-67). Since item 100 contains both the controller, data storage, etc., item 100 controls communication between a user and audio data. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bieselin Figure 1 item 100, to Tang's media servers as indicated in Tang Figure 11, providing Tang the benefit of integrating communication along with a particular media server so as to free up communication resources elsewhere.

In regard to dependent claims 64-65, in addition to the teachings of Tang in view of Bieselin as presented above, Tang teaches a communication server selecting the highest communication service available on each participating computer (see Tang column 14 lines 40-43). If a user selects a video conference, said server will try to match services and media accordingly.

In regard to dependent claim 66, in addition to the teachings of Tang in view of Bieselin as presented above, Tang teaches a communication server selecting the highest communication service available on each participating computer (see Tang column 14 lines 40-43). If a user selects a video conference, said server will

try to match services and media accordingly. Tang also teaches a chat embodiment, whereby various users cooperate with a chat server for transfer of communication data/media.

In regard to dependent claims 67-70, in addition to the teachings of Tang in view of Bieselin as presented above, Tang teaches a communication server selecting the highest communication service available on each participating computer (see Tang column 14 lines 40-43). If a user selects a video conference, said server will try to match services and media accordingly. Tang also teaches a chat embodiment, whereby various users cooperate with a chat server for transfer of communication data/media between users. In addition, an originating message from a chat participant is initially handled independently from other users.

Claims 32, 47, 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tang et al. (hereinafter Tang), U.S. Patent No. 5,793,365 issued August 1998, in view of Bieselin et al. (hereinafter Bieselin), U.S. Patent No. 5,668,863 issued September 1997, and further in view of Rekimoto, U.S. Patent No. 5,956,038 issued September 1999.

In regard to dependent claims 32, 47, 62, Tang teaches the use of chat servers for controlling communication (i.e. streaming media), a computer network with a plurality of connected computers, a first and second chat client transferring data from one computer to another computer, as well as video conferencing capabilities (Tang column 3 lines 20-29, 59-67, column 8 lines 32-40).

Tang does not specifically teach a Web server. However, Rekimoto teaches a chat and media (avatar) related application involving the use of a browser/server (said browser reading HTML) (Rekimoto column 21 lines 59-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Rekimoto to Tang, because of Rekimoto's taught advantage of a web server embodiment, providing a user of Tang a way to utilize a familiar and established method of communication via Internet.

(11) Response to Argument

Page 5 to 6 of Appellant's Appeal Brief (hereinafter the Brief) are directed to a summary of the primary reference (hereinafter Tang). Beginning on page 7 of the Brief, Appellant argues the following specific issues, which are accordingly addressed below.

a. *"Since media servers 81-87 of Tang et al. communicate with the user node via communication server 80, communication server 80 does not correspond to one of the applicant's media servers."*, and

"Since communication server 80 only interfaces communications of all servers 81-87 with the user node, it can be considered to either communicate in all media or no media. But it cannot be considered to communicate in "a different one of the plurality of the media." (page 7 middle of the Brief).

The examiner respectfully disagrees. It is respectfully submitted that the limitations of representative claim 29 do not limit the scope to Appellant's interpretation. Tang's invention deals with a networked chat environment. As shown in Tang Figure 11, user nodes communicate via communication server (item 80) connected to a plurality of media servers (items 81, 83, 85, and 87). The examiner interprets "*communicating between a user node and each of a plurality of media servers directly and not through other of said media servers*" to mean that communication can occur between user node and media server 81, or between user node and media server 83, or between user node and media server 85, or between user node and media server 87, each occurring directly without bridging between any of the media servers (servers 81-87 are shown as separate servers, with no arrows bridging any of the other media servers). Users deal with each server separately. The examiner respectfully maintains that communications server (item 80) is not technically a media server in the context of Tang's established media servers (as the name implies, it is instead a server which specializes in communication protocol, switching, etc.). However, it is well established that networks dealing with

communication (chat or otherwise) typically utilize some form of communication server to handle communication routing, etc. Tang at column 14 lines 40-50, teaches that communication server (80) selects the highest communication service available on all participating user nodes, lending support to the examiner's interpretation that a single media server (i.e. audio conferencing) connects to a user without bridging or overlap from any other another media server during a session. In addition, servers 81-87 are specialized servers, each dealing with a specific media, therefore each media server communicates in a different one of the plurality of the media.

b. *"There is no disclosure, teaching, or suggestion In Tang et al. that one of the media servers 81-87 controls the communication between all of them and the user node, or that one of the media servers 81-87 coordinates presentation of communications in the plurality of the media at the user node."*, and

"The examiner is incorrect in asserting that Bieselin et al. teach a media server controlling the communication between a user node and a plurality of media servers." (page 8 to top of page 9 of the Brief).

The examiner respectfully disagrees. Tang's invention places control with communication server (80). Tang does not disclose this control as emanating from any of its media servers (i.e. server 83). However, Bieselin teaches audio conferencing, whereby an audio conferencing system server comprises a system controller and a data storage subsystem, said storage subsystem primarily storing audio data (see Bieselin Figure 1 items 100, 110, 125, also column 3 lines 60-67). Since item 100 ("Audioconferencing System Server") contains both the System Controller (item 110), and the audio data storage (item 125), etc., therefore item 100 controls communication between a user and audio data during an audio conferencing session. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bieselin's integrated server/controller to Tang's media servers providing Tang the benefit of (along with Tang's communication server) integrating communication control along with a particular media server so as to free up communication

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resources elsewhere. Bieselin's server can then act to exert communication control over its particular media server.

c. *"The combined teachings of Tang et al., Bieselin et al., and Rekimoto do not teach the claimed invention."* (page 9 of the Brief).

The examiner respectfully disagrees. Appellant refers to issues previously presented. Accordingly, these issues have been addressed above.

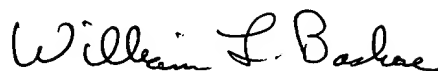
d. *"The Examiner failed to even address the additional requirements of Group B and C claims."* (page 9 to 10 of the Brief).

The examiner respectfully disagrees. It is respectfully submitted that the examiner has addressed the specific recitations of Group B and C claims. Please see the rejection of claims 34-38, 49-53, 59-66, 67-70 above.

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For the above reasons, it is believed that the rejections should be sustained.

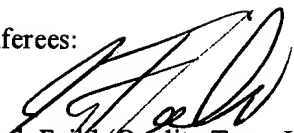
Respectfully submitted,



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November 24, 2004

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